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ABSTRACT

This study used data collected from Los Angeles County, California, authorities and the U.S. Census to test the hypothesis that minority youth are disproportionately transferred to adult court and sentenced to incarceration when compared to white youths in similar circumstances. The research examined arrests between 1996-98 and sentencings between 1997-99. In 1996, the Los Angeles area population was 25% White, 51% Hispanic, 13% African American, and 11% Asian and other races. Hispanic, African American, and Asian/other youth accounted for 95% of the cases that were transferred to adult court in 1996, with Hispanic youth alone accounting for 59% of cases transferred. Hispanic youth were 6 times more likely, and African American youth were 12 times more likely than White youth to be transferred to adult court. Minority youth did have higher arrest rates, but examination of the arrest categories suggests little reason (such as greater number of violent crimes) for the racial disparity in terms of transfers to adult court. The disproportionately harsh disposition of minority youths by adult court shows up regardless of the felony category that is used as the index to measure arrest propensity. Minority youths are 8.3 times more likely than white youths to be sentenced by a an adult court to imprisonment in a California Youth Authority facility. (SLD)

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The Color of Justice

An Analysis of Juvenile Adult Court Transfers in California

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The Color of Justice:

An Analysis of Juvenile Adult Court Transfers in California

By Mike Males, PhD and Dan Macallair , MPA

This study is the first of five reports that will be published this year by Building Blocks for Youth, a multi-year initiative to protect minority youth in the justice system and promote rational and effective juvenile justice policies. The initiative has five major components:

(1) Research on the disparate impact of the justice system on minority youth, on the effects of new adult-court transfer legislation in the states, and on the privatization of juvenile justice facilities by for-profit corporations;

(2) Analyses of decisionmaking at critical points in the justice system, including arrest, detention, adjudication, and disposition;

(3) Direct advocacy on behalf of youth in the justice system, particularly on issues that disproportionately affect youth of color such as conditions of confinement in jails, prisons, and juvenile facilities; access to counsel and adequacy of representation in juvenile court; and "zero tolerance" and other issues relating to school suspensions and expulsions;

(4) Constituency-building among African-American, Latino, and Native-American and other minority organizations, as well as organizations in the medical, mental health, legal, law enforcement, child welfare, civil rights, human rights, religious, victim's rights, and domestic violence areas, at the national, state, and local levels;

(5) Development of communications strategies to provide timely, accurate, and relevant information to these constituencies, public officials, policymakers, the media, and the public.

The partners in the initiative are the Youth Law Center, American Bar Association Juvenile Justice Center, Communication Works, Communications Consortium Media Center, Justice Policy Institute, Juvenile Law Center, Minorities in Law Enforcement, National Council on Crime and Delinquency, and Pretrial Services Resource Center.

The initiative is supported by the federal Office of Juvenile Justice and Delinquency Prevention and the Bureau of Justice Assistance, and the Annie E. Casey, Ford, Walter Johnson, MacArthur, and Rockefeller foundations, and the Center on Crime, Communities & Culture of the Open Society Institute. This project was supported by award No. 98-JN-FX-K003 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice or the supporting foundations.

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The Justice Policy Institute is a policy development and research body that promotes effective and sensible approaches to America's justice system. JPI is a project of the non-profit Center on Juvenile and Criminal Justice

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I. Introduction

Over the past 6 years, 43 states have instituted legislation facilitating the transfer of children to the adult court. The impact of these laws is the gradual erosion of the 100-year-old juvenile justice system. Founded on the belief that children were entitled to a range of special protections due to their vulnerability and immaturity, the juvenile court was intended to separate youth from the deleterious effects of the adult justice system. Inherent in these special protections was the belief that children, because they have not established fixed criminal careers, were more amenable to adult guidance and intervention. In addition, social commentators frequently noted that adult prisons and jails were little more than factories "of vice and viciousness." As a result, within 25 years juvenile courts were in place in every state.

However, in the past two decades, the juvenile justice system and its underlying premise of treatment and rehabilitation have come under attack as being too lenient, especially with regard to its capacity to handle the supposedly more violent, delinquent youth of the 1980s and 1990s. Conservative critics charged that in the absence of harsh treatment, the system's ability to deter today's allegedly unprecedented delinquent and violent youth was compromised. When serious youth crime, particularly homicide, rose during the late 1980s, the conservative ideology of deterrence and incapacitation received greater credence. Legislators raced to quell growing public fear of youth crime by passing ever-harsher legislation and demanding penalties commensurate with those given adults. At the present time, all 50 states have laws on the books allowing juveniles to be tried as adults.[1]

There is a dearth of research analyzing the effects of this legislation on minority populations. Many critics charge that the growing numbers of youths being transferred to adult court for criminal prosecution are disproportionately minority, with African Americans and Hispanics receiving particularly discriminatory treatment. This contention is supported by studies showing that California's harsher adult sentencing practices disproportionately affect minority groups. For example, a 1996 study by the Justice Policy Institute found that compared to whites ("whites" refers to non-Hispanic Anglos), African Americans were five times more likely to be arrested for felonies, seven times more likely to be sent to prison, and 13 times more likely to be sentenced under the State's "Three Strikes" law.

At a time when laws affecting the criminal prosecution of youths are being rapidly revised, it is vital to understand fully the consequences of these changes. This research examines the impact of adult court transfers and sentencing on minority youth in California, with a specific look at minority representation in waivers (transfers of juvenile offenders to adult criminal court) in Los Angeles County.

II. Research Review on Juveniles in the Justice System

Several recent studies suggest that minority youth are overrepresented at every stage of the justice system. For example, in a 3-year study of youth in Florida's juvenile justice system, researchers found:

> *Minority juveniles processed for delinquency offenses in 1987 received more severe (i.e., more formal and/or more restrictive) dispositions than their white counterparts at several stages of juvenile processing. Specifically, we found that when juvenile offenders were alike in terms of age, gender, seriousness of the offense which promoted the current referral, and seriousness of their prior records, the probability of receiving the harshest disposition available at each of several processing stages was higher for minority youth than for white youth.*[2]

These disparities were found at every stage of the juvenile justice system. In addition, follow-up discussions with juvenile justice "decision-makers" revealed that most believed that race was a factor in decision making.[3] Moreover, a study of the juvenile justice system in California found that minority youth, particularly African American and Hispanic youth, consistently received more severe dispositions than white youth, and are more likely to be committed to state institutions than white youth for the same offenses. These findings were consistent with research in other states. For example:

> *According to a study by Hamparian and Lieber, California had the highest number of juveniles - 19,567 - in custody in public facilities. Minorities comprised 53.4% of the youth population statewide, but they accounted for 59% of all juveniles arrested, almost 64% of the juveniles held in secure detention and 70% of the juveniles placed in secure corrections.*[4]

In Ohio, there were 3,551 juveniles held in custody in public facilities. Minorities comprised 14.3% of the youth population statewide, but they accounted for 30% of the juveniles arrested and 43% of the juveniles placed in secure corrections.[5]

In Texas, there were 3, 505 juveniles held in custody in public facilities. Minorities comprised 50% of the youth population statewide, but they accounted for 65% of the juveniles held in secure detention, 80% of the juveniles placed in secure corrections, and 100% of the juveniles held in adult jails.[6]

Defenders of current practice argue that these large discrepancies in confinement of minorities result from differential crime patterns among young people in different racial groups and is not reflective of racial bias or discrimination in the justice system. However, others argue that racial disparities in the criminal justice system are the direct result of discrimination.[7] While the preponderance of studies indicate some level of bias against minority defendants, the issue remains controversial.[8]

III. Methodology

This study utilized data collected from the Los Angeles County Probation Department Research Division, Los Angeles County District Attorney's Office, California Youth Authority Research Division, California Department of Justice Criminal Justice Statistics Center, Department of Finance Demographic Research Division and the United States Bureau of the Census. The years examined were 1996-98 (arrestees) and 1997-99 (sentencings). Both sets of three-year periods are the most recent for juvenile arrests and juveniles transferred to adult court. The one-year difference takes into account that sentencings occur substantially after arrests. Due to the absence of uniform county reporting standards, adult court transfer statistics from Los Angeles County (which accounts for 40% of California's juvenile transfers to adult court) were used. The most recent data available (1996) were used for the purposes of the Los Angeles analysis.

The analysis compares the proportions of white, African-American, Hispanic and Asian/Others in the total juvenile (age 10-17) population and in the total number of juvenile arrestees by offense category with the respective proportions of their transfers to adult court and sentencings to a California Youth Authority (CYA) facility. The purpose of this analysis is to test the hypothesis that minority youth are disproportionately transferred to adult court and sentenced to incarceration compared to white youths in similar circumstances.

IV. Results

Los Angeles County Analysis (1996)

By population proportions. In 1996, whites comprised 25%, Hispanics 51%, African Americans 13%, and Asians and other races 11% of Los Angeles County's population between ages 10 and 17 (Table 1). However, Los Angeles Probation Department data reveal that Hispanic, African American, and Asian/other youth accounted for 95% of the cases where youth were found "unfit" for juvenile court and transferred to adult court in 1996 (Table 1). Hispanic youth accounted for the largest percentage of cases found unfit (59%). Expressed as a rate per 100,000 population age 10-17 by race, 11 white, 64 Hispanic, 134 African American, and 30 Asian/other youths were found unfit in 1996. Thus, Hispanic youth are 6 times more likely, African American youth are 12 times more likely, and Asian/other youth 3 times more likely than white youths to be found unfit for juvenile court and transferred to adult court in Los Angeles County.

By arrest proportions. It may be argued that the disproportionate transfer of minority youth to adult court reflects not discrimination in the transfer system, but the higher arrest rate of minority youth for serious crimes. This argument is explored in Table 1 and Figures 1-4.

Table 1. Los Angeles County Minority youth are transferred to adult court 2.5 times more than White youth after arrest rates for serious crimes are controlled, 1996

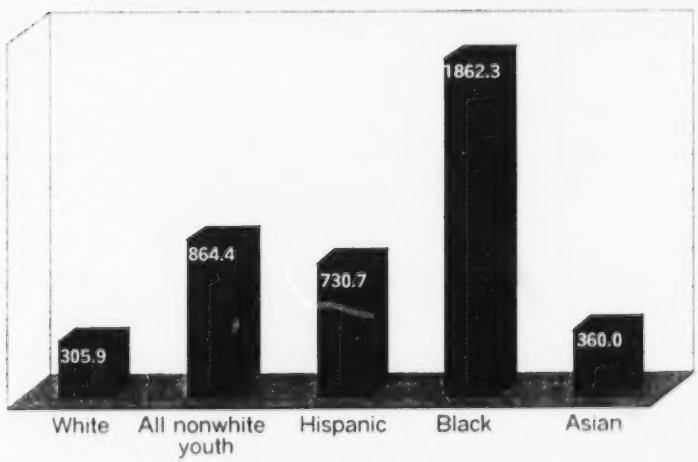
Percent of:	White	Hispanic	Black	Asian/other	Number
Pop. 10-17	24.7%	51.4%	12.6%	11.3%	998,400
Arrests for:					
Violent crime	10.4%	51.7%	32.3%	5.6%	7,253
Homicide	2.8	53.9	31.5	11.8	178
Rape	7.7	45.4	42.3	4.6	130
Robbery	7.1	51.6	36.6	4.8	3,691
Ag. assault	14.7	52.1	27.1	6.1	3,254
Property crime	12.6	56.3	23.4	7.8	11,481
Drug felonies	12.8	65.6	19.1	2.5	2,672
All felonies	12.2%	56.0%	25.4%	6.4%	24,013
Transfers to adult court	5.0%	58.8%	30.1%	6.1%	561

Source: California Youth Authority, Research Division, printout by request, January 2000. California Criminal Justice Statistics Center, "California Criminal Justice Profiles," Los Angeles County, 1996, Table 22. Sacramento: California Department of Justice.

Figure 1 shows Los Angeles minority youth indeed have higher arrest rates for felony violent crimes (murder, rape, robbery, and aggravated assault) ranging from 1.2 times (Asian) to 6.1 times (Black) the arrest rates for white youth. While some of this discrepancy may reflect racial biases in the arrest and charging system, the result is that the pool of violent arrestees (those most likely to be transferred to adult court) is disproportionately minority.

All else being equal, we would expect that the proportions of juveniles transferred to adult court and sentenced to CYA facilities would reflect roughly the same racial breakdown as for violent crime arrests. However, Figure 2 shows all else is not equal. Los Angeles' transfer rate to adult court for minority violence arrestees is double that for white violence arrestees. Perhaps, then, minority youth violence arrestees are accused of more heinous violent crimes or have lengthier criminal records than white violence arrestees.

Figure 1: L.A. Nonwhite youth violent felony arrest rates 1.2x to 6x white rates



Examination of the arrest categories suggests little reason for such great racial disparity in transfers of violent crime arrestees to adult court. For the rarer but more violent offenses most likely to result in transfer, minority youth offenders are

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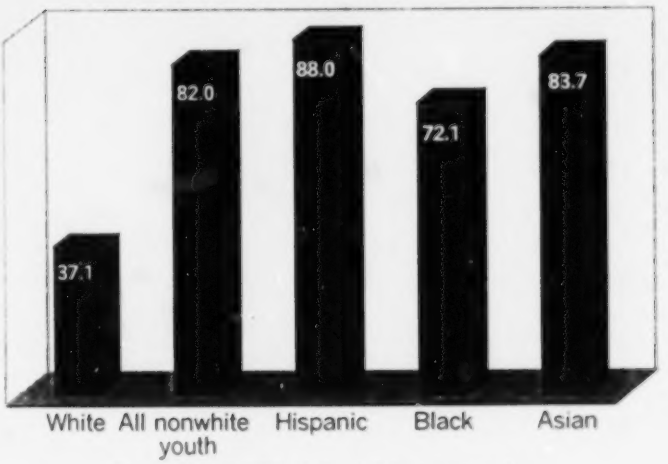
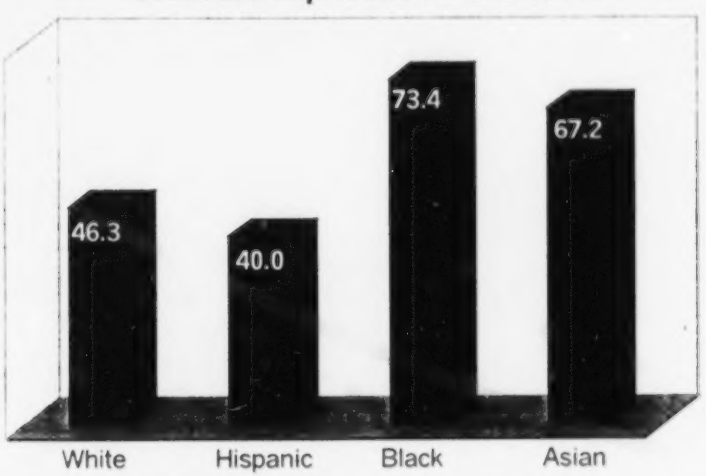
overrepresented for homicide and white youth offenders for rape. In terms of the more common offenses, minority arrestees tend more toward robbery and white arrestees more toward aggravated assault. Since aggravated assault by definition involves use of a weapon and/or serious injury to the victim while robbery constitutes only face-to-face taking of the victim's property with or without injury, assault would seem a more serious victimization on average and therefore more likely to occasion transfer. Further, while previous studies have found minority youth are treated more harshly by the justice system than white youths with equivalent criminal records, the state data available to this study are not sufficient to examine this question. In order to justify a doubled rate of transfer, the criminal records of minority arrestees would have to be consistently and substantially longer than for white arrestees accused of similar violent crimes.

Figure 2: Violent nonwhite youth arrestees tried in adult court 2x more than whites



Transfers/1,000 violent felony arrests

Figure 3: Black & Asian youth tried in adult court are imprisoned more often



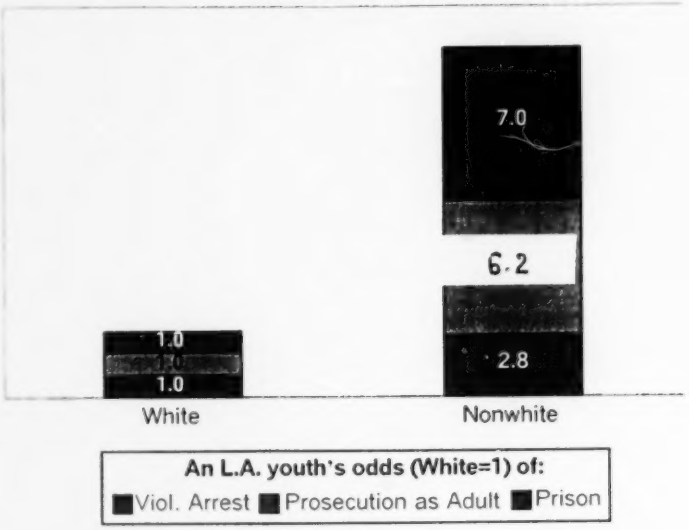
Imprisonments/100 adult court transfers

Figure 3 shows that adult courts are considerably more likely to sentence African American and Asian/other offenders to prison than Hispanic or white convicts. The difference is considerable, but it is based on only 292 sentencings in 1996. The statewide data on this subject for 1997-99 shown in Table 2 and Figure 5 may be more reliable.

Figure 4 shows how racial disparities accumulate, even accelerate, as the youth moves into the adult system. While Figures 1-3 display rates, Figure 4 presents a ratio. Assume that the odds of a Los Angeles white youth being arrested for a violent offense, transferred to adult court, and sentenced to prison are arbitrarily set equal to 1. We can then calculate the odds of a Los Angeles minority youth experiencing those same outcomes relative to a white youth. Compared to white youths, minority youths are 2.8 times as likely to be arrested for a violent crime, 6.2 times as likely to wind

up in adult court, and 7 times as likely to be sent to prison by adult courts. Thus, something happens after arrest to increase a minority youth's odds of imprisonment from 2.8 times that of a white youth (based on violence arrest differences) to 7 times more (based on adult court sentencing).

Figure 4: L.A. nonwhite youth have 2.8x arrest rate - but 7x adult-imprisonment rate



Statewide Analysis (1996-99)

The disparate racial picture indicated by Los Angeles' adult court transfer statistics are reflected in state sentencing statistics. Compared to their populations and levels of arrest for every offense category (Table 2), minority youth offenders are much more likely than white youth offenders to be sentenced to incarceration in California Youth Authority facilities.

Whites comprised 45%, Hispanics 35%, African Americans 8%, and Asians, Native Americans, and other races 12% of California's population ages 10-17 in 1996-98. Compared to their proportion of the population and of juvenile offenders, minority youth are overrepresented at all stages of the juvenile justice system.

Table 2. Minority youth are sentenced more harshly by adult courts for equivalent offenses than are White youth, California, 1996-98 (arrests) and 1997-99 (sentencings)

Percent of:	White	Hispanic	Black	Asian/other	3-year Totals
Pop. 10-17	44.6%	35.4%	7.8%	12.2%	11,012,000
Arrests for:					
Violent crime	23.0%	42.1%	26.8%	8.1%	62,726
Homicide	11.8	52.2	21.1	14.9	1,047
Rape	24.6	40.6	29.6	5.1	1,340
Robbery	14.9	40.9	36.7	7.5	23,654
Ag. assault	28.5	42.7	20.4	8.4	36,685
Property crime	30.1	40.6	18.5	10.8	123,778
Drug felonies	26.3	44.8	24.0	4.9	23,791
All felonies	27.9%	42.4%	20.6%	9.1%	244,492
Sentencings to CYA by adult court:					
	8.9	51.5	28.6	11.0	639
Sentencings to CYA by juvenile court:					
	15.5	50.1	26.4	8.1	5,938

Source: California Youth Authority, Research Division, data provision by request, January 2000. California Criminal Justice Statistics Center. "California Criminal Justice Profiles," Los Angeles County, 1996, Table 22. Sacramento: California Department of Justice.

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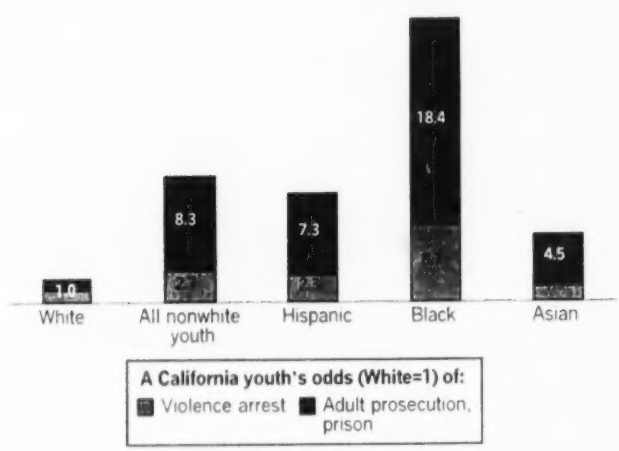
Further, white youth representation decreased at every stage of the system (arrests, transfers to adult court, sentencing, and imprisonment) while minority youth representation increased.

CYA data reveal that minority youth are far more likely to be committed to a CYA facility (prison) through the juvenile court or temporarily housed there until transferred to adult prison at age 18. Moreover, minority youths are transferred to adult court and imprisoned more often than their proportions of violent crime arrestees would predict.

Figure 5, like Figure 4, sets the odds of a white youth being arrested for a violent crime, transferred to adult court, and sentenced to prison equal to 1, then presents the comparative odds of these outcomes among minority youth. Relative to white youth, Hispanic youth are 2.3 times as likely, African American youth 6.7 times as likely, and Asian/other youth 1.3 times as likely, to be arrested for a violent offense. However, after transfer to and prosecution in the adult system, Hispanic youth offenders wind up being 7.3 times more likely, African American youth offenders 18.4 times more likely and Asian youth offenders 4.5 times more likely, to be sentenced by an adult court to CYA confinement. Overall, compared to their respective contributions to California's violence arrest volume, African American, Hispanic, Asian, and other minority youth offenders are 3 times more likely to be sentenced to CYA confinement than are white youth offenders arrested for similar offenses.

Figure 5: Nonwhites tried as adults, imprisoned more even when arrest rates controlled



This disproportionately harsh disposition of minority youths by adult courts shows up regardless of the felony offense category that is used as the index to measure arrest propensity. For example, compared to their respective contribution to California's felony arrest volume, African American youth offenders are 4.4 times as likely, and Hispanic and Asian youth offenders are 3.8 times as likely to be sentenced to CYA confinement than are white youth offenders.

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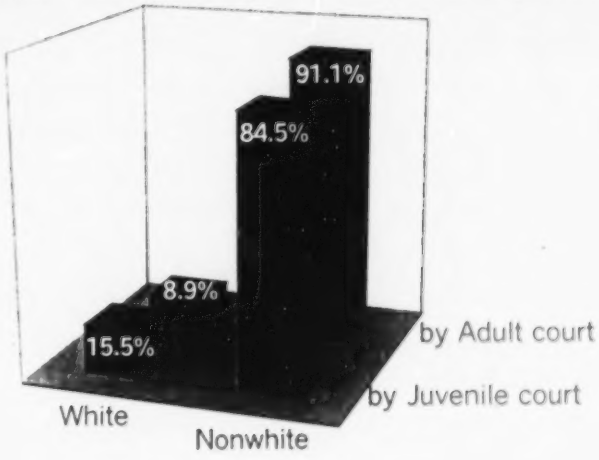
Finally, and of increasing concern, transfer from juvenile to adult court appears to exacerbate already large racial disparities in sentencing (Figure 6). Whites represent 15.5% of juvenile court sentencings to CYA confinement, but only 8.9% of adult court sentencings to CYA. While compared to white youths accused of similar crimes, minority youth offenders are somewhat more likely to be sentenced to CYA facilities by juvenile courts (minority youth are 77.0% of violent crime arrestees, 84.5% of CYA sentencings), they are much more likely to be sentenced to CYA facilities when transferred to adult courts (91.1% of CYA sentencings).

Figure 6: Adult courts more likely than juvenile courts to imprison nonwhite youths



V. Discussion and Conclusion

This study is the first analysis of racial and ethnic disparity in the transfer of youths to adult court and sentencing to CYA facilities in California. Like previous studies on racial disparity in the criminal justice system, this study reveals imbalances that are stark and vast:

Minority youths are 8.3 times more likely than white youths to be sentenced by an adult court to imprisonment in a California Youth Authority facility. Two factors contribute in roughly equal measure to this discrepancy:

- First, minority youths are 2.7 times more likely than white youths to be arrested for a violent felony (the crimes most likely to result in transfer to adult court).
- Second, once in the system, minority juvenile violent crime arrestees are 3.1 times more likely than white juvenile violent crime arrestees to be transferred to adult court and sentenced to confinement in a CYA prison.

While it is debatable whether the disproportionate minority youth arrests are a reflection of race-based violent crime differentials or racially biased policing and charging policies, the discriminatory treatment of minority youth arrestees accumulates within the justice system and accelerates measurably if the youth is transferred to adult court.

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The limited analysis of Los Angeles County data reveals that the major factor in the large racial disparities in sentencing lies in the much more frequent transfer of minority juveniles to adult court. The more complete, statewide analysis shows the outcomes of those transfers are unusually harsh sentences of minority offenders by adult courts. The reasons for these disparities are not clear; they do not appear to result from more heinous offenses by minority youth, although the possibility of systematic differences in prior criminal records cannot be evaluated from available information. Even when the most conservative and clearly limited index is used (each race's respective contribution to California's juvenile homicide volume), minority offenders remain 1.4 times more likely to be sentenced to CYA confinement by adult courts than are similarly offending white youth.

Given the current analysis and previous studies showing similar racial discrepancies in other areas of the juvenile justice and criminal justice systems, future research must begin examining the basis for the large adult court (and the lesser juvenile court) disparities in sentencing this study found. In 1980, white youth comprised 30% of the CYA population; in 1998, they comprised 14%. Hispanic youth have risen from 30% to 49% over the same period. The CYA projects that Hispanic youth will represent 65% of the CYA population within the next several years. Clearly, if the current trends toward a harsher and more severe criminal justice system continues, minority youth will be affected in accelerating fashion. As more minority youths are pushed more deeply into the criminal justice system, fewer will be prepared to enter mainstream society or the labor market.

Although statistical assessments are limited in their ability to analyze underlying, less quantitative or tangible reasons for these disparities, the current analysis raises troubling issues. Future research needs to examine the underlying reasons for and solutions to these racial disparities.

VI. Endnotes

1 Office of Juvenile Justice and Delinquency Prevention. 1999. Juvenile Offenders and Victims: 1999 National Report. Washington DC: United States Department of Justice.
2 Bishop, Donna & Charles Frazier, 1990. A study of race and juvenile processing in Florida. A report submitted to the Florida Supreme Court Racial and Ethnic Bias Study Commission.
3 Id. at 5.
4 Hamparian, Donna & Michael Leiber. 1997. Disproportionate Confinement of Minority Juveniles in Secure Facilities: 1996 National Report. Champaign, IL: Community Research Associates, p 9.
5 Id.
6 Id.
7 Michael Tonry, 1995. Malign Neglect:: Race, Crime, and Punishment in America. New York, NY: Oxford University Press.
8 Office of Juvenile Justice and Delinquency Prevention. 1995. Minorities and the Juvenile Justice System: Research Summary. Washington DC: United States Department of Justice.

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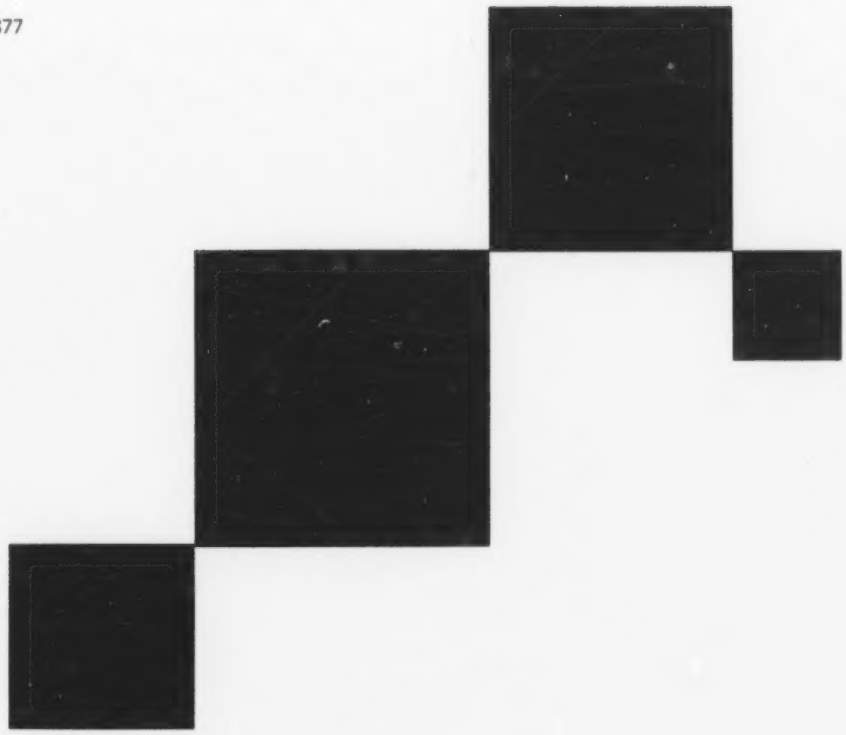

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